

**28–1388(E) Blood and breath tests; violation; classification; admissible evidence—
Sample of blood, urine, or other bodily substance.**

.010 In order to allow the results of testing of a portion of a blood, urine, or other sample taken under this section, the state must show (1) the officer had probable cause to believe the person has violated the DUI statute, (2) the sample was taken for medical purposes, and (3) exigent circumstances existed.

State v. Reyes, 238 Ariz. 575, 364 P.3d 1134, ¶¶ 5–19 (Ct. App. 2015) (in April 2012, defendant crashed vehicle into building and was taken to hospital for treatment for non-life-threatening injuries, and hospital personnel drew a sample of his blood; defendant refused to consent to officer's request for blood sample; officer did not seek warrant because he knew he could obtain portion of blood drawn by hospital personnel, but acknowledged there was sufficient time to have requested warrant; defendant conceded officer had probable cause to believe he had violated DUI statute and sample was taken for medical purposes; trial court stated it would have suppressed evidence if blood draw had occurred after 4/14/2013 when *Missouri v. McNeely* was decided; court did not apply exclusionary rule pursuant to *Davis v. United States*, 131 S. Ct. 2419 (2011)).

.020 Before the police are entitled to a portion of a blood, urine, or other sample taken for medical purposes, the person must have voluntarily submitted to the medical treatment.

State v. Nissley, 238 Ariz. 446, 362 P.3d 493, ¶¶ 27–38 (Ct. App. 2015) (at 5:30 p.m., defendant collided head-on into oncoming vehicle, injuring four persons in vehicle and killing pedestrian; although defendant was very hostile and combative with medical personnel, court concluded defendant did not expressly refuse medical treatment, thus trial court properly denied defendant's motion to suppress results of testing on blood drawn in hospital).

36–2801(1)(b) Arizona Medical Marijuana Act—Definitions—Allowable amount of marijuana—Designated caregiver.

.010 With respect to a designated caregiver, the “allowable amount of marijuana” for each patient assisted by the designated caregiver means 2½ ounces of usable marijuana.

State v. Liwski (Gillie), 238 Ariz. 184, 358 P.3d 605, ¶¶ 6–10 (Ct. App. 2015) (because defendant was authorized to care for only one patient, he was entitled to possess only 2½ ounces of marijuana, thus he did not have immunity for possession 3½ ounces of marijuana).

36–2802(D) Arizona Medical Marijuana Act; Limitations—Control of vehicle.

.010 In order to prove a defendant guilty under § 28–1381(A)(3), the state must only prove the presence of a drug or metabolite in the person's body and does not have to prove the person was in fact impaired, thus the provision of the AMMA, A.R.S. § 36–2802(D), which provides immunity to being “under the influence of marijuana,” does not immunize a medical marijuana cardholder from prosecution under § 28–1381(A)(3), but instead affords an affirmative defense if the cardholder shows the marijuana or its metabolite was in a concentration insufficient to cause impairment.

Dobson v. McClennen, 238 Ariz. 389, 361 P.3d 374, ¶¶ 10–20 (2015) (blood tests showed each defendant had marijuana and its impairing metabolite in their body).

Darrah v. McClennen, 236 Ariz. 185, 337 P.3d 550, ¶¶ 1–7 (Ct. App. 2014) (defendant’s blood contained 4.0 ng/ml of THC), *vac’d*, 2015WL7759889 (Dec. 1, 2015).

.020 A.R.S. § 28–1381(D) provides a person is not guilty of violating A.R.S. § 28–1381(A)(3) if the person is using a drug as prescribed by a medical practitioner; because under federal law marijuana may not be dispensed under a prescription, a “written certification” signed by a physician pursuant to the AMMA is not a prescription under A.R.S. § 28–1381(D) and thus is not defense to a charge under § 28–1381(A)(3).

Dobson v. McClennen, 238 Ariz. 389, 361 P.3d 374, ¶¶ 18, 22 (2015) (court held any error by trial court in excluding evidence of defendants’ medical marijuana cards was harmless in light of stipulation by defendants that they had marijuana in their bodies).

36–2804.03(C) Arizona Medical Marijuana Act—Issuance of registry identification cards.

.010 This statute provided that a person with a registry identification card issued by another state that allows a “visiting qualifying patient” the right to possess or use marijuana for medical purposes in that state is allowed to possess or use marijuana for medical purposes in Arizona; because the language in the statute includes only a “visiting qualifying patient” and not a “visiting designated caregiver,” a registry identification card issued by another state for a designated caregiver does not give the person the right to possess or use marijuana in Arizona.

State v. Abdi, 236 Ariz. 609, 343 P.3d 921, ¶¶ 7–13 (Ct. App. 2015) (defendant was arrested with 5.07 grams of marijuana and was charged with possession of marijuana; defendant had valid registration card issued by Oregon Health Authority as caregiver and listed her father (Oregon resident) as patient; defendant contended this permitted her to possess marijuana in Arizona; court held trial court properly precluded evidence of defendant’s registration card and fact she was registered with Oregon Health Authority).

36–2811(B) Arizona Medical Marijuana Act—Presumption of medical use of marijuana; protections; civil penalty.

.010 This statute does not provide immunity from prosecution for a registered qualifying patient who provides marijuana to another registered qualifying patient in return for something of value.

State v. Mallock, 237 Ariz. 331, 350 P.3d 835, ¶¶ 7–22 (Ct. App. 2015) (in online posting, defendant offered to provide marijuana plants to other medical marijuana cardholders and requested “\$25 donation” per plant; undercover officer showed defendant medical marijuana card indicating he was authorized to cultivate marijuana; defendant gave officer three marijuana plants, and officer gave defendant \$75; trial court granted defendant’s motion to dismiss indictment; court reversed trial court).

41–1604.09(I) Parole eligibility certification; classifications; appeal; recertification; applicability; definition—Applicability.

.010 Parole is available only to individuals who committed a felony before January 1, 1994, and juveniles, and is a right that may not be waived.

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶¶ 62–66 (2015) (defendant attempted to waive his right to parole so that he could argue to jurors that, if given a life sentence, he could never be released; court held defendant could not waive his right to parole, thus he was not entitled to such an instruction; moreover, even if defendant were not eligible to be released on parole, he could have been released in other ways, such as executive clemency).

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ARTICLE III. RIGHTS OF PARTIES.

RULE 6. ATTORNEYS, APPOINTMENT OF COUNSEL.

Rule 6.1(b) Rights to counsel; waiver of rights to counsel—Right to appointed counsel.

6.1.b.120 A defendant has the right to counsel and has the right to proceed without counsel, but does not have the right to hybrid representation.

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶¶ 62–63 (2015) (because defendant was represented by counsel, trial court did not have to consider defendant's *pro se* motion for change of judge).

Rule 6.1(c) Rights to counsel; waiver of rights to counsel—Misconduct toward appointed counsel.

6.1.c.700 A defendant may implicitly waive the right to counsel through conduct, as long as the waiver is knowing, voluntary, and intelligent.

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶¶ 12–15 (Ct. App. 2015) (although trial court did not engage in formal colloquy to determine if defendant's waiver was voluntary, and defendant did not expressly waive right to counsel, (1) trial court did inform defendant, after his second privately retained attorney withdrew, that he would have to represent himself if he did not retain another attorney, (2) defendant admitted having consulted other private attorneys after his fourth privately retained attorney was allowed to withdraw because she stated she could not ethically continue representing defendant, and (3) defendant engaged in unreasonable behavior during trial, court found defendant implicitly waived any right to counsel).

Rule 6.3(b) Duties of counsel; withdrawal—Duty of continuing representation.

6.3.b.010 When an attorney files a motion to withdraw alleging further representation would result in a violation of the Rules of Professional Conduct or other law, the trial court must determine whether the attorney has shown good cause before permitting the withdrawal, and the trial court ordinarily should accept as sufficient the attorney's statement that professional considerations require termination of representation.

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶¶ 5–8 (Ct. App. 2015) (attorney's statement that circumstances had developed that cause an irremedial breakdown in the attorney-client relationship and that the attorney could not ethically proceed further was sufficient).

Rule 6.3(c) Duties of counsel; withdrawal—Duty upon withdrawal.

6.3.c.040 The failure to include in the motion to withdraw a designation of a substituting attorney and a signed statement from that attorney that the attorney would be prepared for trial is a technical error that is not grounds for reversal if substantial justice is done and the error does not prejudice the defendant's rights.

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶¶ 9–10 (Ct. App. 2015) (because defendant's fourth privately retained attorney could not ethically continue representing defendant, defendant was not prejudiced by attorney's failure to include name of substitute attorney).

Rule 6.4(b) Determination of indigency—Questionnaire.

6.4.b.010 Before a defendant is entitled to court-appointed counsel, the defendant must complete under oath a questionnaire concerning the defendant's financial resources.

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶ 11 (Ct. App. 2015) (because defendant refused to provide trial court with financial information and had hired four separated private attorneys, trial court did not err in denying defendant's request for court-appointed counsel after trial court granted motion to withdraw filed by defendant's fourth privately retained attorney, which stated she could not ethically continue representing defendant).

RULE 8. SPEEDY TRIAL.

Rule 8.2(a) Time limits—General.

8.2.a.040 If the state elects to refile charges against a defendant, the Rule 8 time limits commence to run from the date of the second arraignment.

x6 *State v. Dalton*, ___ Ariz. ___, 366 P.3d 133, ¶¶ 4, 17–19 (Ct. App. 2016) (grand jury indicted defendant for criminal trespass, and then on 1/21/14, another grand jury indicted defendant for second-degree burglary and criminal damage; 3/13/14, trial court dismissed criminal trespass charges on state's motion; court held time limits ran from 1/21/14 indictment).

Rule 8.5(b) Continuances—Grounds for motion.

8.5.b.020 The trial court may grant a motion to continue only when extraordinary circumstances exist and the delay is indispensable to the interests of justice; to show abuse of discretion, the party must show prejudice.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 10–16 (2015) (trial court continued guilt phase three times so trial did not begin until 3½ years after indictment; trial court denied motions to continue mitigation phase, which did not begin until 4 years after indictment; because defendant presented 12 days of mitigation, which included most evidence he claimed he was not able to offer because of time constraints, and because evidence defendant claimed he was unable to present would not have been relevant, defendant failed to show prejudice).

8.5.b.050 The decision whether to grant a continuance is within the sound discretion of the trial court, and an appellate court will not overturn the trial court's ruling absent a clear abuse of that discretion; the defendant must show prejudice before the court will find an abuse of discretion.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 10–16 (2015) (trial court continued guilt phase three times so trial did not begin until 3½ years after indictment; trial court denied motions to continue mitigation phase, which did not begin until 4 years after indictment; because defendant presented 12 days of mitigation, which included most evidence he claimed he was not able to offer because of time constraints, and because evidence defendant claimed he was unable to present would not have been relevant, defendant failed to show prejudice).

8.5.b.080 Under Rule 8.5(b), the trial court must consider the victims' right to a timely resolution of the charges when considering whether to continue the matter.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 17 (2015) (trial court continued guilt phase three times so trial did not begin until 3½ years after indictment; trial court denied motions to continue mitigation phase, which did not begin until 4 years after indictment; family of victim (whom defendant killed) repeatedly voiced frustration at trial delays).

ARTICLE IV. PRETRIAL PROCEDURES.

RULE 13. INDICTMENT AND INFORMATION.

Rule 13.2(c) Nature and contents—Notice and necessarily included offenses.

13.2.c.010 The specification of an offense in the charging document constitutes a charge of that offense and all necessarily included offenses.

State v. Erivez, 236 Ariz. 472, 341 P.3d 514, ¶¶ 20–21 (Ct. App. 2015) (defendant was charged with aggravated assault; because disorderly conduct by recklessly displaying or handling firearm and simple assault are both lesser-included offenses of aggravated assault, defendant was on notice he could be convicted of either of these lesser-included offenses, thus trial court properly gave jurors instructions on both disorderly conduct and simple assault in addition to instruction on aggravated assault; no error for jurors to find defendant guilty of both disorderly conduct and simple assault).

Rule 13.3(a) Joinder—Offenses.

13.3.a.016 Although a duplicative (duplicitous) indictment is prohibited in part because it presents the chance for a non-unanimous jury verdict, if the defendant is charged with felony murder based on two or more predicate offenses and substantial evidence supports each alleged predicate offense, the defendant is not entitled to relief because the defendant is not entitled to a unanimous verdict on how the defendant committed the murder.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 40–42 (2015) (state charged defendant with felony murder and alleged kidnapping and sexual assault as predicate felonies; because substantial evidence supported convictions for predicate felonies, defendant was not entitled to relief; moreover, state also charged defendant with premeditated murder, and jurors found him guilty of both felony murder and premeditated murder).

13.3.a.320 Two or more offenses may be joined if they are part of a common scheme or plan in that evidence of one offense would be admissible in a trial on the other offense.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 29–33 (2015) (state alleged defendant kidnapped victim intending to sexually assault her, then sexually assaulted her, then murdered her to prevent discovery of kidnapping and sexual assault; because much of same evidence that proved murder also proved kidnapping and sexual assault, trial court did not abuse discretion in denying motion to sever).

Rule 13.4(a) Severance—In general.

13.4.a.020 A defendant is entitled to a severance under this subsection when it is necessary to promote a fair determination of the defendant's guilt or innocence.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 34–39 (2015) (state charged defendant with kidnapping, sexually assault, murder, and misconduct with weapons; because state had to prove defendant's prior felony convictions in order to prove misconduct with weapons, and because jurors would not have heard evidence of defendant's prior felony convictions if kidnapping, sexually assault, and murder charges had been tried separately, trial court abused discretion in not severing charges, but court found error harmless; court took opportunity to advise that weapons misconduct charges should not be joined with other charges unless there is a factual nexus).

RULE 15. DISCOVERY.

Rule 15.7(a) Sanctions—Failure to make disclosure.

15.7.a.040 In determining whether to impose sanctions, the trial court should consider (1) how vital the witness is to the case, (2) whether the opposing party will be surprised, (3) whether the discovery violation was motivated by bad faith, and (4) any other relevant circumstances.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 91–95 (2015) (less than 1 week before penalty phase, defendant disclosed expert witness who would testify about PET scan of defendant's brain; because trial court admitted some evidence and defendant did not show what excluded evidence would have added, trial court did not abuse discretion in precluding evidence).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 96–100 (2015) (because excluded evidence would have been cumulative, trial court did not abuse discretion in precluding evidence).

RULE 16. PRETRIAL MOTION PRACTICE; OMNIBUS HEARING.

Rule 16.1(d) General provisions—Finality of pretrial determination.

16.1.d.010 Once the trial court has determined an issue, that court or another of equal jurisdiction may not reconsider that issue in the same case, except upon a showing of good cause.

State v. Greenberg, 236 Ariz. 592, 343 P.3d 462, ¶¶ 26–27 (Ct. App. 2015) (police suspected defendant of trespass and looking through window at juvenile female; police interviewed defendant, and he confessed to trespass (8/27 confession); police developed further information about defendant and obtained warrant to search his home and car; police found numerous CDS and DVDs containing child pornography, sexually explicit videos of unknowing victims filmed by defendant, and hand-held camera; police again interviewed defendant, and he confessed owning evidence police found (8/31 confession); state charged defendant with trespass and 10 counts of sexual exploitation of minor; defendant moved to suppress 8/27 confession and evidence seized from his home; trial court suppressed 8/27 confession on basis that it was result of implied promise and suppressed evidence because it concluded affidavit did not provide magistrate with probable cause; state dismissed all charges except 8/27 trespass charge and appealed suppression of seized evidence, but did not appeal suppression of 8/27 confession; during pendency of appeal, defendant pled guilty to 8/27 trespass charge;

on appeal, court held trial court erred in suppressing seized evidence; following remand, state filed numerous charges against defendant under new cause number that was assigned to different judge; defendant moved to suppress both confession and contended trial court was barred from reconsidering 8/27 confession; trial court ruled both confessions were admissible; court held law of the case doctrine and Rule 16.1(d) applied in same case and that, because state had charged defendant under new cause number and with more charges than in first cause number, prosecutions were not “same case” and thus trial court was not precluded from making new determination about 8/27 confession).

ARTICLE V. PLEAS OF GUILTY AND NO CONTEST.

RULE 17. PLEAS OF GUILTY AND NO CONTEST.

Rule 17.4(a) Plea negotiations and agreements—Plea negotiations.

17.4.a.030 If the defendant is certified to use marijuana under the AMMA, the trial court may not impose as a condition of probation that the defendant may not use marijuana.

State ex rel. Polk v. Hancock (Ferrell), 237 Ariz. 125, 347 P.3d 142, ¶¶ 7–23 (2015) (defendant pled guilty to DUI; plea agreement provided that, as a condition of probation, defendant would not buy, grow, possess, consume, or use marijuana; court held trial court could not impose such condition for person permitted to use marijuana under AMMA, but state was then permitted to withdraw from plea agreement).

Reed-Kaliher v. Hoggate, 237 Ariz. 119, 347 P.3d 136, ¶¶ 6–25 (2015) (once defendant obtained certification to use marijuana under AMMA, trial court abused discretion in refusing to modify conditions of probation to remove prohibition against using marijuana).

Rule 17.4(e) Plea negotiations and agreements—Rejection of the plea.

17.4.e.030 If the defendant is certified to use marijuana under the AMMA, the trial court may not impose as a condition of probation that the defendant may not use marijuana.

State ex rel. Polk v. Hancock (Ferrell), 237 Ariz. 125, 347 P.3d 142, ¶¶ 12–23 (2015) (defendant pled guilty to DUI; plea agreement provided that, as a condition of probation, defendant would not buy, grow, possess, consume, or use marijuana, and further provided state could withdraw from plea agreement if court rejected any provision; court held trial court could not impose condition prohibiting use of marijuana for person permitted to use marijuana under AMMA; court further held state was then permitted to withdraw from plea agreement).

ARTICLE VI. TRIAL.

RULE 18. TRIAL BY JURY; WAIVER; SELECTION AND PREPARATION OF JURORS.

Rule 18.4(b) Challenges—Challenges for cause.

18.4.b.070 The trial court may strike a juror for cause only when it appears that the juror cannot render a fair and impartial verdict, thus the fact that a prospective juror knows about the case, knows about the area where the crime occurred, knows the prosecuting attorney, defense attorney, trial judge, law enforcement personnel, witnesses, or the victim or the victim's family, has certain opinions or preconceived ideas, or has general knowledge about a subject that will be an issue at trial, does not render the person incompetent to be a juror provided the person is willing to put aside the personal opinions and weigh the evidence as the law requires.

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶¶ 71–75 (2015) (although prospective juror had worked in same hospital where one of state's witnesses had worked, she said she had no direct dealings with him, but though "the surgeons that work at Good Sam are excellent surgeons"; because prospective juror said she could be fair and that her employment in hospital would not affect her decision-making process, trial court did not abuse discretion in not striking that prospective juror for cause).

Rule 18.5(d) Procedure for selecting a jury—Voir dire examination.

18.5.d.060 The trial court is not required to ask prospective jurors whether they would vote for death based on specific aggravating factors or whether they would consider certain fact situations to be mitigating circumstances.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 19–21 (2015) (trial court did not abuse discretion in not asking jurors if they would consider life sentence for defendant convicted of sexual assault and kidnapping in addition to murder).

Rule 18.5(h) Procedure for selecting a jury—Selection of jury.

18.5.h.040 If the trial substitutes an alternate for one of the selected jurors while the jurors are in the process of deliberating during one of the phases, the trial court must instruct the jurors to begin deliberations again; failure to do so may be harmless error under the circumstances.

State v. Dalton, ___ Ariz. ___, 366 P.3d 133, ¶¶ 7–14 (Ct. App. 2016) (jurors retired at 2:15 p.m. to deliberate; at 4:21 p.m., jurors had decided to "quit for the day," but one juror said she could not return next day, so trial court said it would bring back alternative juror; when jurors reconvened, trial court did not instruct them to begin deliberations again, but defendant did not object; court found this was fundamental error).

RULE 19. TRIAL.

Rule 19.1(a)(4) Conduct of trial—Order of proceedings—The state's case.

19.1.a.420 The trial court has the discretion to permit re-cross-examination on any new issue raised on re-direct.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 53 (2015) (defendant contended he should have been allowed to re-cross-examine his former fiancée about telephone conversation wherein she told defendant's co-worker she was not afraid of defendant and defendant was never violent with women; because defendant's attorney asked about this conversation on cross-examination and no new issue arose during re-direct examination that would warrant re-cross-examination, trial court did not abuse discretion in not permitting re-cross-examination).

Rule 19.1(mmt) Conduct of trial—Motion for mistrial.

19.1.mmt.020 A declaration of a mistrial is the most dramatic remedy for trial error, and should be granted only when it appears that justice will be thwarted unless the jury is dismissed and a new trial granted.

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶¶ 27–31 (Ct. App. 2015) (officer's testimony that, in sting operation, they are trained to tell person that person has opportunity to walk away because "we try to get away from the entrapment issue" was not opinion on ultimate issue of defendant's guilt and did not entitle defendant to mistrial).

19.1.mmt.070 A defendant is entitled to a mistrial based on **juror** conduct or misconduct only if the defendant either shows actual prejudice or if prejudice may be fairly presumed from the facts.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 105–11 (2015) (during trial, jurors did several things that indicated they were afraid of defendant; trial court questioned jurors to determine whether they could remain fair and impartial; trial court did not abuse discretion in denying motion for mistrial).

19.1.mmt.120 To determine whether a **witness's** remarks or actions were so objectionable as to require a mistrial, the trial court must consider (1) whether the testimony called to the attention of the jurors matters that they would not be justified in considering for their verdict, and (2) the probability that the jurors, under the circumstances of the case, were influenced by the testimony.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 56–58 (2015) (state had agreed not to introduce evidence of weapons other than murder weapon (9mm handgun); when asked what he found in defendant's home, detective said they found several folding knives; because these were common household items, court concluded jurors would not have been influenced by that testimony, thus trial court did not abuse discretion in deny motion for mistrial).

RULE 21. INSTRUCTIONS.

Rule 21.1 Applicable law.

21.1.005 A party is entitled to any jury instruction reasonably supported by the evidence.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 48 (2015) (because victim had GHB (date-rape drug) in liver; and because GHB can cause person to be confused and disoriented, state entitled to jury instruction that "without consent" means that "victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep, or any other similar impairment").

21.1.070 If the state introduces evidence of multiple criminal acts to prove a single charge, the trial court is normally obligated to take one of two remedial measures to ensure that the defendant receives a unanimous jury verdict: (1) require the state to elect which of the acts constitutes the crime or (2) instruct the jurors that they must unanimously agree on the act that constitutes the crime; it is not error for the trial court not to take such actions if all separate acts the state intends to introduce are part of a single criminal transaction.

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶¶ 31–46 (Ct. App. 2015) (defendant was charged with committing child abuse (which is alternative means statute); indictment described child abuse as single unified offense that person can commit in one of three different ways; court concluded state’s evidence showed all acts were part of single criminal transaction, thus defendant was not entitled to jury instruction that jurors must unanimously determine which way defendant committed crime).

Lesser-included offenses.

21.1.310 Trial court must instruct on the offense charged and any offense necessarily included in the charged offense if the evidence supports such a lesser-included offense, and both the defendant and the state are entitled to such a lesser-included offense instruction.

State v. Veloz, 236 Ariz. 532, 342 P.3d 1272, ¶¶ 18–19 (Ct. App. 2015) (defendant was charged with committing organized retail theft; because shoplifting is not lesser-included offense, trial court did not err in not sua sponte instructing on that offense).

Willits instruction.

21.1.810 A defendant is not entitled to a *Willits* instruction unless the defendant can show that (1) the state failed to preserve material evidence that was reasonably accessible, (2) the evidence might have exonerated the defendant, and (3) as a result, the defendant suffered prejudice.

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶¶ 38–41 (2015) (defendant contended he was entitled to *Willits* instruction because state did not acquire cell phone and cell phone records from residence where victims lived; because record did not show where cell phone was ever found, it was unclear whether cell phone was reasonably accessible, and although state could have obtained cell phone records by means of subpoena, defendant did not specify exactly what data records would have contained or how that data would have been helpful to his defense; because defendant merely speculates, defendant failed to establish lost evidence would have exculpated him).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶¶ 32–39 (Ct. App. 2015) (defendant contended he was entitled to *Willits* instruction based on deletion of text and voice messages undercover officer received from confidential informant before undercover officer met with defendant; because of defendant’s entrapment defense and speculative nature of deleted material, court concluded defendant failed to show deleted material was exculpatory, thus defendant not entitled to *Willits* instruction).

RULE 22. DELIBERATIONS.

Rule 22.5(a) Discharge—After verdict.

22.5.a.010 A verdict is not final and binding until the trial court accepts the verdict and discharges the jurors.

State v. Hansen, 237 Ariz. 61, 345 P.3d 116, ¶¶ 10–14 (Ct. App. 2015) (trial court instructed jurors on both aggravated assault and simple assault; jurors returned verdict of guilty of aggravated assault and not guilty of simple assault; after jurors returned verdict on question of dangerousness, trial court realized verdicts were inconsistent; defendant’s attorney contended only option was to grant mistrial, to which state objected; trial court agreed and granted mistrial; state sought special action review; court held that verdict is not final until trial court accepts it and concluded neither verdict in this case was final).

RULE 23. VERDICT.

Rule 23.3 Conviction of necessarily included offense.

23.3.010 The specification of an offense in the charging document constitutes a charge of that offense and all necessarily included offenses, and so the trial court shall submit forms of verdict for all necessarily-included offenses and related offenses supported by the evidence.

State v. Lua, 237 Ariz. 301, 350 P.3d 805, ¶¶ 15–16 (2015) (defendant was charged with attempted second-degree murder; evidence was presented that defendant may have attacked victim upon sudden quarrel or heat of passion resulting from adequate provocation by the victim; although provocation manslaughter is not lesser-included offense of second-degree murder, because evidence showed defendant could have committed provocation manslaughter, trial court correctly instructed jurors on that offense).

State v. Erivez, 236 Ariz. 472, 341 P.3d 514, ¶ 21 (Ct. App. 2015) (defendant was charged with aggravated assault; because disorderly conduct by recklessly displaying or handling firearm and simple assault are both lesser-included offenses of aggravated assault, trial court properly gave jurors instructions on both disorderly conduct and simple assault in addition to instruction on aggravated assault).

Rule 23.4 Poll.

23.4.050 If the jurors return inconsistent verdicts, the trial court should reinstruct them and direct them to retire for further deliberations, or else discharge the jurors and declare a mistrial.

State v. Hansen, 237 Ariz. 61, 345 P.3d 116, ¶¶ 14–26 (Ct. App. 2015) (trial court instructed jurors on both aggravated assault and simple assault; jurors returned verdict of guilty of aggravated assault and not guilty of simple assault; after jurors returned verdict on question of dangerousness, trial court realized verdicts were inconsistent; defendant's attorney contended only option was to grant mistrial, to which state objected; trial court agreed and granted mistrial; court held trial court erred in not reinstructing them and directing them to retire for further deliberations before it discharged them and declare mistrial, but held only remedy at this point was to grant defendant new trial).

23.4.060 A verdict is final if (1) the deliberations are over, (2) the result is announced in open court, (3) the jurors are polled and no dissent is registered, (4) the trial court accepts the verdict; and (5) the trial court discharges the jurors; the trial court may not ask the jurors to do any more after that point.

State v. Hansen, 237 Ariz. 61, 345 P.3d 116, ¶¶ 10–14 (Ct. App. 2015) (trial court instructed jurors on both aggravated assault and simple assault; jurors returned verdict of guilty of aggravated assault and not guilty of simple assault; after jurors returned verdict on question of dangerousness, trial court realized verdicts were inconsistent; defendant's attorney contended only option was to grant mistrial, to which state objected; trial court agreed and granted mistrial; state sought special action review; court held that verdict is not final until trial court accepts it and concluded neither verdict in this case was final).

ARTICLE VII. POST-VERDICT PROCEEDINGS.

RULE 24. POST-TRIAL MOTIONS.

Rule 24.1(a) Motion for new trial—Power of the court.

24.1.a.020 Because motions for a new trial are disfavored and should be granted with great caution, for a motion for new trial based on a claim that the verdict is contrary to the weight of the evidence, the trial court should grant such a motion only if it is quite clear that the jurors reached a seriously erroneous result and it is necessary to set aside the verdict to avoid a miscarriage of justice.

State v. Fischer, 238 Ariz. 309, 360 P.3d 105, ¶¶ 25–82 (Ct. App. 2015) (court concluded trial court abused discretion in granting motion for new trial because it (1) made factual findings not supported by record, (2) failed to consider certain evidence in record, (3) improperly rejected certain testimony, (4) failed to weigh incriminating nature of certain evidence, (5) placed too much weight on certain exculpatory evidence, and (6) inaccurately characterized state's theory; record showed jurors did not reach seriously erroneous result and did not show it was necessary to set aside verdict to avoid miscarriage of justice), *rev. granted*, CR–15–0265–PR (Mar. 15, 2016).

Rule 24.1(c)(2) Motion for new trial—Prosecutorial misconduct.

24.1.c.230 To prove prosecutorial misconduct, a defendant must show (1) the prosecutor's actions were improper, and (2) a reasonable likelihood exists that the misconduct could have affected the jurors' verdict, thereby denying the defendant a fair trial.

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶¶ 6–52 (2015) (court discussed 18 instances when trial court sustained defendant's objections to prosecutor's actions, 7 instances when trial court overruled defendant's objections, and 23 instances when defendant made no objections; court stated prosecutor improperly made argumentative statements during opening statement, asked argumentative questions and made inappropriate remarks during cross-examination, made improper arguments during final arguments, and made number of inappropriate comments, and stated trial court should have exercised more control over aggressive questioning of witnesses, but held trial court's instruction to jurors cured any defect when trial court sustained defendant's objections and held no fundamental error in instances when defendant did not object, and thus affirmed conviction).

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶¶ 50–80 (Ct. App. 2015) (court held trial court's instruction to jurors cured any defect when trial court sustained defendant's objections and further held, assuming some misconduct, it was harmless, so it thus affirmed conviction).

24.1.c.290 The cumulative error doctrine does apply to claims of prosecutorial misconduct because, even if the several actions are not errors in and of themselves, they may show that the prosecutor intentionally engaged in improper conduct and did so either with indifference or with the specific intent to prejudice the defendant.

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶¶ 6–52 (2015) (court discussed 18 instances when trial court sustained defendant's objections to prosecutor's actions, 7 instances when trial court overruled defendant's objections, and 23 instances when defendant made no objections; court stated prosecutor improperly made argumentative statements during opening statement, asked argumentative questions and made inappropriate remarks during cross-ex-

amination, made improper arguments during final arguments, and made number of inappropriate comments, and stated trial court should have exercised more control over aggressive question of witnesses, but held trial court's instruction to jurors cured any defect when trial court sustained defendant's objections and stated that prosecutorial misconduct, while present in some instances, was not so pronounced or sustained that it required a new sentencing trial).

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶ 81 (Ct. App. 2015) (court held cumulative effect of prosecutor's conduct was not so pronounced and persistent that it permeated entire atmosphere of trial, so trial court did not abuse discretion in denying defendant's motion for new trial).

RULE 26. JUDGMENT, PRE-SENTENCE REPORT, PRE-SENTENCE HEARING, SENTENCE.

Rule 26.3(a) Date of sentencing; extension—Date of sentencing.

26.3.a.020 In a capital proceeding the 30-day sentencing period does not begin to run until after the conclusion of the penalty phase.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 124–25 (2015) (defendant convicted of both capital and non-capital offenses; court rejected defendant's contention that trial court was required to sentence him on non-capital offenses prior to penalty phase for capital offense).

ARTICLE VIII. APPEAL AND OTHER POST-CONVICTION RELIEF.

RULE 31. APPEAL FROM SUPERIOR COURT.

Rule 31.13(c) Appellate briefs—Contents.

31.13.c.010 The appellate brief must contain arguments supported by adequate explanation, citations to the record, and citations to the appropriate authority.

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 23 n.4 (2015) (because defendant did not cite any authority or make any arguments for the Compulsory Process or Confrontation Clause claims, court did not address them).

State v. Greenberg, 236 Ariz. 592, 343 P.3d 462, ¶ 24 (Ct. App. 2015) (defendant asserted on appeal that trial court should have excluded second confession; because defendant did not present significant arguments supported by authority, court did not consider issue on appeal).

Rule 31.13(c) Appellate briefs—Contents—Fundamental error.

31.13.c.fe.020 Fundamental error is limited to those rare cases that involve error going to the foundation of the defendant's case, error that takes from the defendant a right essential to the defendant's defense, and error of such magnitude that the defendant could not possibly have received a fair trial, and places the burden on the defendant to show that the error was fundamental and prejudicial.

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶¶ 6–52 (2015) (court discussed 23 instances when defendant made no objections to prosecutor's actions; court stated prosecutor improperly made argumentative statements during opening statement, asked argumentative questions and made inappropriate remarks during cross-examination, made improper arguments during final arguments, and made number of inappropriate comments, and stated trial court should have exercised more control over aggressive question of witnesses, but held no fundamental error in instances when defendant did not object, and thus affirmed conviction).

31.13.c.fe.030 If the defendant **did not** object at trial, the appellate court will review only for **fundamental error**, and **will grant** relief if the defendant proves fundamental, prejudicial error.

State v. Woods, 237 Ariz. 214, 348 P.3d 910, ¶¶ 4–22 (Ct. App. 2015) (court held granting mistrial resulted in double jeopardy and held double jeopardy violation is fundamental error).

State v. Juarez-Orci, 236 Ariz. 520, 342 P.3d 856, ¶¶ 17–23 (Ct. App. 2015) (instructing jurors that defendant could be guilty of attempted second-degree murder if defendant intended only to cause serious physical injury was fundamental error).

31.13.c.fe.050 If the defendant **did not** object at trial to a **trial procedure**, the appellate court will review only for **fundamental error**, and **will not grant** relief if the defendant fails to prove fundamental, prejudicial error.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 45 (2015) (victim and defendant met at gas station and went out on date; almost 3 weeks later, victim was found dead, and state charged defendant with kidnapping, sexual assault, and murder; in opening statement and closing argument, prosecutor stated this was victim’s “first date”; defendant contended on appeal evidence that victim had not dated previously warranted a mistrial under Rule 403; because defendant failed to object on that ground at trial, court reviewed for fundamental error only; court held fact that victim’s date with defendant was victim’s first date helped place victim’s actions in context and thus was probative, and held defendant failed to show evidence posed danger of unfair prejudice, thus court found no error, much less fundamental error).

State v. Williams, 236 Ariz. 600, 343 P.3d 470, ¶¶ 20–21 (Ct. App. 2015) (because defendant did not request limiting instruction and did not contend at trial that prosecutor’s comments amounted to misconduct, court reviewed for fundamental error and found none).

31.13.c.fe.070 If the defendant **did not** object at trial to the giving or the refusal to give a **jury instruction**, the appellate court will review only for **fundamental error**, and **will not grant** relief if the defendant fails to prove fundamental, prejudicial error.

State v. Williams, 236 Ariz. 600, 343 P.3d 470, ¶¶ 20–21 (Ct. App. 2015) (because defendant did not request limiting instruction and did not contend at trial that prosecutor’s comments amounted to misconduct, court reviewed for fundamental error and found none).

31.13.c.fe.090 Instructing the jurors on a non-existent theory of criminal liability is fundamental error.

State v. Felix, 237 Ariz. 280, 349 P.3d 1117, ¶¶ 13–14 (Ct. App. 2015) (trial court instructed jurors they could find defendant guilty of attempted second-degree murder if he knew his conduct would cause death or serious physical injury).

31.13.c.fe.100 The imposition of an illegal sentence or a sentence that violates the provision against double jeopardy is fundamental error.

State v. Salcido, 238 Ariz. 461, 362 P.3d 508, ¶ 17 (Ct. App. 2015) (because both possession of dangerous drugs and possession of dangerous drugs for sale are lesser-included offenses of transportation or importation of dangerous drugs, sentencing defendant for all three violated provision against double jeopardy).

31.13.c.fe.140 If a defendant failed to present an issue to the trial court and then claims error on appeal, but does not argue why error was fundamental, the appellate court will not address the issue on appeal.

State v. Williams, 236 Ariz. 600, 343 P.3d 470, ¶ 21 (Ct. App. 2015) (defendant did not make claim at trial that prosecutor's comments amounted to misconduct; because defendant did not argue on appeal that prosecutor's comments resulted in fundamental error, appellate court did not consider issue further).

Rule 31.13(c) Appellate briefs—Contents—Harmless error.

31.13.c.he.020 When a defendant **did** object at trial and thereby preserved an issue for appeal, if the appellate court concludes there was error, the court **will not reverse** if the state proves beyond a reasonable doubt that the error did not contribute to or affect the verdict or sentence.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 38–39 (2015) (court held trial court abused discretion in not severing misconduct with weapons charge from kidnapping, sexually assault, and murder charges, but concluded evidence of defendant's guilt was overwhelming, thus any error was harmless).

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶¶ 16–20 (Ct. App. 2015) (defendant was convicted of resisting arrest and disorderly conduct after he refused to stop photographing court clerk with his iPod; trial court erred in not suppressing digital images of court clerk on defendant's iPod, which officers seized upon arresting defendant; however, because (1) clerk testified defendant admitted taking her photograph in violation of courthouse rules, (2) officers testified defendant became aggressive and refused to delete images upon their request, and (3) defendant never denied taking photographs of court clerk, any error in admission of photographs was harmless).

Rule 31.13(c) Appellate briefs—Contents—Appellate review.

31.13.c.ar.060 Opening brief **on appeal** must present significant arguments, supported by authority and citations to the record, setting forth appellant's position on issues raised, and failure to argue a claim usually constitutes abandonment and waiver of that claim.

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 23 n.4 (2015) (because defendant did not cite any authority or make any arguments for the Compulsory Process or Confrontation Clause claims, court did not address them).

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶¶ 48–49 (Ct. App. 2015) (in motion for new trial, defendant listed as a reason that verdicts were contrary to weight of evidence, but did not argue that point in remainder of motion; although defendant claimed on appeal that trial court's failure to address this argument was error, she did not argue why this error could be considered fundamental error, thus appellate court considered this issue waived).

State v. Lee (Ray), 238 Ariz. 19, 355 P.3d 621, ¶ 8 (Ct. App. 2015) (defendant contended precluding him from interviewing each victim about what happened to other three victims deprived him of effective assistance of counsel; because defendant offered no explanation or supporting authority, court declined to address that contention).

State v. Greenberg, 236 Ariz. 592, 343 P.3d 462, ¶ 24 (Ct. App. 2015) (defendant asserted on appeal that trial court should have excluded second confession; because defendant did not present significant arguments supported by authority, court did not consider issue on appeal).

31.13.c.ar.070 Because the appellant is required to brief and argue **on appeal** all issues in the opening brief, and because Rule 31.13(c)(3) limits the reply brief to matters raised in the answering brief, the appellate court will not consider an issue the appellant raises for the first time in a **reply brief** or **supplemental brief**.

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶¶ 56–57 (Ct. App. 2015) (in reply brief, defendant argued portion of prosecutor’s argument to jurors was misconduct; under assumption that defendant had not waived this issue, court found no error).

State v. Cheatham, 237 Ariz. 502, 353 P.3d 382, ¶ 11 n.4 (Ct. App. 2015) (in reply brief, defendant contended state’s argument about marijuana “lacks merit” when compared to possession of prescription drugs; because defendant raised issue for first time in reply on appeal and failed otherwise to develop argument, defendant waived issue, and court did not address it), *rev. granted*, CR–15–0286–PR (Mar. 15, 2016).

Rule 31.16 Appeal by state is inoperative to stay order in favor of defendant.

31.16.010 Although this rule allows the state to obtain a stay while appealing the trial court’s order granting a new trial, it does not require the state to keep the charges intact and ask for a stay.

State v. Fischer, 238 Ariz. 309, 360 P.3d 105, ¶¶ 8–11 (Ct. App. 2015) (when trial court granted motion for new trial, state dismissed charges and appealed trial court’s ruling; court rejected defendant’s contention that appeal was moot because state had dismissed charges), *rev. granted*, CR–15–0265–PR (Mar. 15, 2016).

Rule 31.17(b) Disposition and ancillary orders—Disposition, in general.

31.17.b.010 An appellate court determines *de novo* whether the evidence introduced at trial was sufficient to support the conviction.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 72–75 (2015) (court concluded evidence was sufficient to support convictions for sexual assault and kidnapping).

RULE 32. OTHER POST-CONVICTION RELIEF.

Rule 32.1(g) Scope of remedy—Significant change in the law.

32.1.g.010 A “significant change in the law” will occur when an appellate court overrules previously binding case law or when a statutory or constitutional amendment makes a definite break from prior case law, but does not occur when a case merely interprets a statutory or constitutional provision already in effect.

State v. Werderman, 237 Ariz. 342, 350 P.3d 846, ¶¶ 4–11 (Ct. App. 2015) (court concluded *State ex rel. Montgomery v. Harris (Shilgevorkyan)* did not overrule previously binding case law and thus did not entitle defendant to relief under Rule 32.1(g)).

Rule 32.4 Commencement of proceedings.

Rule 32.4(a) Commencement of proceedings—Form, filing, and service of petition.

32.4.a.010 Rule 32.4(a) provides that the proceedings may be commenced “within 90 days of the entry of judgment and sentence,” and A.R.S. § 13–4234(G) provides the time limits for filing a notice and petition are jurisdictional.

State v. Goldin, 239 Ariz. 12, 365 P.3d 364, ¶¶ 14–26 (Ct. App. Dec. 22, 2015) (defendant sentenced 1/31/13; on 2/10/14, defendant filed notice of post-conviction relief, which trial court dismissed as untimely; on 4/16/14, defendant filed second notice of post-conviction relief asserting claim of ineffective assistance of counsel; court held under *State v. Diaz*, 236 Ariz. 361, 340 P.3d 1069 (2014), trial court should have considered defendant’s petition).

ARTICLE X. ADDITIONAL RULES.

SPECIAL ACTIONS.

Rule 1 Nature of the special action.

1.sa.100 Special action review is available when the party does not have an equally plain, speedy, and adequate remedy by appeal.

State ex rel. Montgomery v. Padilla (Simcox), 238 Ariz. 560, 364 P.3d 479, ¶ 11 (Ct. App. 2015) (because state did not have equally plain, speedy, and adequate remedy by appeal to seek review of trial court's ruling that defendant could question witnesses about statement victim purportedly made that another person (N) had touched her inappropriately, special action review was appropriate).

State v. Liwski (Gillie), 238 Ariz. 184, 358 P.3d 605, ¶ 4 (Ct. App. 2015) (because state did not have equally plain, speedy, and adequate remedy by appeal to seek review of trial court's ruling that defendant could assert defense under AMMA, special action review was appropriate).

State v. Lee (Ray), 238 Ariz. 19, 355 P.3d 621, ¶ 3 (Ct. App. 2015) (because state did not have right to appeal trial court's order that each victim would be required to be interviewed about what happened to other three victims, state had to seek review by petition for special action).

State v. Steinle (Moran), 237 Ariz. 531, 354 P.3d 408, ¶ 5 (Ct. App. 2015) (state did not have speedy or adequate remedy by appeal for review of trial court's order that it would not admit edited or cropped video because full copy was not available), *rev. granted*, CV-15-0263-PR (Feb. 9, 2016).

State ex rel. Montgomery v. Rogers (Morgan), 237 Ariz. 419, 352 P.3d 451, ¶ 6 (Ct. App. 2015) (state had no adequate remedy on appeal to review trial court's jury instruction).

Allen v. Sanders, 237 Ariz. 93, 347 P.3d 30, ¶ 5 (Ct. App. 2015) (when trial court ruled Victim's Bill of Rights precluded her from interviewing witness, defendant had no equally plain, speedy, or adequate remedy by appeal).

State v. Hansen, 237 Ariz. 61, 345 P.3d 116, ¶ 9 (Ct. App. 2015) (because state had no remedy by appeal from an order granting a mistrial, court chose to exercise its special action jurisdiction).

Lindsay R. v. Cohen (Meyn), 236 Ariz. 565, 343 P.3d 435, ¶ 5 (Ct. App. 2015) (victim had no right to appeal trial court's order that victim's attorney could not substitute for prosecutor in restitution proceedings).

1.sa.300 Special action is appropriate when the matter (1) involved only a legal question, (2) was of first impression, (3) was of statewide importance, (4) was likely to recur, or (5) had received inconsistent decisions by different trial courts.

State ex rel. Montgomery v. Padilla (Simcox), 238 Ariz. 560, 364 P.3d 479, ¶ 11 (Ct. App. 2015) (whether defendant could question witnesses about statement victim purportedly made that another person (N) had touched her inappropriately (3) was of statewide importance and (4) was likely to recur).

State v. Liwski (Gillie), 238 Ariz. 184, 358 P.3d 605, ¶ 4 (Ct. App. 2015) (whether defendant could assert defense under AMMA (1) involved only legal question, (2) was of first impression, and (3) was of statewide importance).

State ex rel. Polk v. Campbell (Kraps), 238 Ariz. 109, 357 P.3d 144, ¶ 4 (Ct. App. 2015) (whether enhanced punishment under 13–3212(G) applied when victim was 18 or older but defendant thought victim was 15 to 17, or applied only if victim was actually 15 to 17, (3) was of statewide importance, and (4) was likely to recur), *rev. granted*, CR–15–0303–PR (Feb. 9, 2016).

State v. Steinle (Moran), 237 Ariz. 531, 354 P.3d 408, ¶ 5 (Ct. App. 2015) (whether edited or cropped video was “statement” (2) was of first impression), *rev. granted*, CV–15–0263–PR (Feb. 9, 2016).

State ex rel. Montgomery v. Rogers (Morgan), 237 Ariz. 419, 352 P.3d 451, ¶ 6 (Ct. App. 2015) (whether jury instruction was correct (1) involved only legal question).

Allen v. Sanders, 237 Ariz. 93, 347 P.3d 30, ¶ 5 (Ct. App. 2015) (what is meant by “affinity” under Victim’s Bill of Rights (1) involved only legal question).

Lindsay R. v. Cohen (Meyn), 236 Ariz. 565, 343 P.3d 435, ¶ 5 (Ct. App. 2015) (whether victim’s attorney could substitute for prosecutor in restitution proceedings (1) involved only legal question).

RULES OF THE ARIZONA SUPREME COURT.

RULES OF PROFESSIONAL CONDUCT.

Rule 38(d) Special Exceptions to Standard Examination and Admission Process—Clinical Law Professors and Law Students.

38.d.010 Under Rule 38(d)(5)(C)(I)(c), for any criminal matter in superior court or any felony matter in any court, the supervising attorney or designated attorney must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

State v. Terrazas, 237 Ariz. 170, 347 P.3d 1151, ¶¶ 2–5 (Ct. App. 2015) (at first trial, defendant was represented by attorney and Rule 38(d) certified law student; trial court declared mistrial; at second trial, defendant was represented by same attorney and same law student, who had now taken bar examination, but had not yet been admitted to practice; because law student’s certification had expired, defendant contended he was denied right to counsel; court held that, because supervising attorney was present throughout the proceedings and was fully responsible for them, defendant received his right to counsel).

Rule 31.13(c) Appellate briefs—Contents—Standard of review.

Something is discretionary because it is based on an assessment of conflicting procedural, factual or equitable considerations which vary from case to case and which can be better determined or resolved by the trial judge, who has a more immediate grasp of all the facts of the case, an opportunity to see the parties, lawyers and witnesses, and who can better assess the impact of what occurs before him. Where a decision is made on that basis, it is truly discretionary and we will not substitute our judgment for that of the trial judge; we will not second-guess. Where, however, the facts or inferences from them are not in dispute and where there are few or no conflicting procedural, factual or equitable considerations, the resolution of the question is one of law or logic. Then it is our final responsibility to determine law and policy and it becomes our duty to “look over the shoulder” of the trial judge and, if appropriate, substitute our judgment for his or hers.

State v. Chapple, 135 Ariz. 281, 297 n.18, 660 P.2d 1208, 1224 n.18 (1983) (citation omitted).

Rule 31.13(c) Appellate briefs—Contents—Standard of review—*De novo* or de novo review for legal or logical determinations.

Rule 31.13(c)(1)(vi): “With respect to each contention raised on appeal, the proper standard of review on appeal shall be identified, with citations to relevant authority, at the outset of the discussion of that contention.”

31.13.c.sr.ld.010 Interpretation of a constitutional right is a question of law that is reviewed either *de novo* or de novo.

State v. Ortiz, 238 Ariz. 329, 360 P.3d 125, ¶ 27 (Ct. App. 2015) (challenges to admissibility based on Confrontation Clause reviewed de novo).

State v. Ortiz, 238 Ariz. 329, 360 P.3d 125, ¶ 60 (Ct. App. 2015) (whether trial court or jurors must decide whether offenses had been committed on separate occasions reviewed de novo).

Allen v. Sanders, 237 Ariz. 93, 347 P.3d 30, ¶ 5 (Ct. App. 2015) (what is meant by “affinity” under Victim’s Bill of Rights was question of law that is reviewed de novo).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶ 8 (Ct. App. 2015) (constitutional issues in motion to dismiss reviewed de novo).

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶ 4 (Ct. App. 2015) (constitutional right to counsel reviewed *de novo*).

31.13.c.sr.qol.020 Interpretation of a statute is a question of law that is reviewed either *de novo* or de novo.

Dobson v. McClennen, 238 Ariz. 389, 361 P.3d 374, ¶ 7 (2015) (interpretation of immunity provision of AMMA, A.R.S. § 36–2802(D), reviewed de novo).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 53 (2015) (interpretation of A.R.S. § 13–752(K), which provides for second jury if first jury is unable to reach verdict at penalty phase, reviewed de novo).

Glazer v. State of Arizona, 237 Ariz. 160, 347 P.3d 1141, ¶ 12 (2015) (interpretation of A.R.S. § 8–820.03, which provides affirmative defense for injuries arising out of plan or design of roadways, reviewed de novo).

Reed-Kaliher v. Hoggate, 237 Ariz. 119, 347 P.3d 136, ¶ 6 (2015) (whether immunity provision of A.R.S. § 36–2811(B) precluded trial court from imposing as condition of probation that person not use marijuana, reviewed de novo).

State ex rel. Montgomery v. Padilla (Simcox), 238 Ariz. 560, 364 P.3d 479, ¶ 12 (Ct. App. 2015) (construction of § 13–1421, which allows for admission of evidence relating to victim’s chastity, reviewed de novo).

State v. Simmons, 238 Ariz. 503, 363 P.3d 120, ¶ 12 (Ct. App. 2015) (construction of § 13–3417, which prohibits use of wire or electronic communication in drug related transactions, reviewed de novo).

State v. Burke, 238 Ariz. 322, 360 P.3d 118, ¶ 4 (Ct. App. 2015) (whether A.R.S. § 28–622(A) is unconstitutionally vague reviewed de novo).

State v. Reyes, 238 Ariz. 304, 360 P.3d 100, ¶ 8 (Ct. App. 2015) (whether A.R.S. § 13–3016(B) (which requires communications service provider, pursuant to search warrant, to disclose communications held in electronic storage) requires notice to subscriber or party, reviewed de novo).

State v. Liwski (Gillie), 238 Ariz. 184, 358 P.3d 605, ¶ 5 (Ct. App. 2015) (interpretation of provision in AMMA reviewed de novo).

State v. Gray, 238 Ariz. 147, 357 P.3d 831, ¶ 5 (Ct. App. 2015) (construction and requirements of entrapment statute reviewed de novo).

State ex rel. Polk v. Campbell (Kraps), 238 Ariz. 109, 357 P.3d 144, ¶ 5 (Ct. App. 2015) (whether enhanced punishment under 13–3212(G) applied when victim was 18 or older but defendant thought victim was 15 to 17 years of age, or applied only if victim was actually 15 to 17 years of age, reviewed de novo), *rev. granted*, CR–15–0303–PR (Feb. 9, 2016).

City of Scottsdale v. State, 237 Ariz. 467, 352 P.3d 936, ¶ 9 (Ct. App. 2015) (whether state statute preempted city ordinance reviewed de novo).

State v. Matlock, 237 Ariz. 331, 350 P.3d 835, ¶ 7 (Ct. App. 2015) (whether immunity provision of A.R.S. § 36–2811(B) provides immunity for registered qualifying patient who provides marijuana to another registered qualifying patient in return for something of value, reviewed de novo).

State v. Abdi, 236 Ariz. 609, 343 P.3d 921, ¶ 8 (Ct. App. 2015) (whether A.R.S. § 36–2804.03(C) applied to out-of-state registered caregiver reviewed de novo).

State v. Pledger, 236 Ariz. 469, 341 P.3d 511, ¶ 8 (Ct. App. 2015) (meaning of language in A.R.S. § 13–1204(E) (whether defendant must know victim is peace officer) reviewed de novo).

31.13.c.sr.qol.030 Interpretation of the Arizona Rules of Criminal Procedure and Arizona Rules of Evidence is a question of law that is reviewed either *de novo* or de novo.

State v. Bernstein (Herman), 237 Ariz. 226, 349 P.3d 200, ¶ 9 (2015) (court interpreted **Rule 702(d)**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 124 (2015) (court interpreted **Rule 26.3**).

Arizona Rules of Criminal Procedure.

31.13.c.sr.ld.010 Trial court's legal determinations on a motion are reviewed either *de novo* or *de novo*.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 83 (2015) (whether charges are multiplicative (multiplicitous) under **Rule 13.3(a)** reviewed *de novo*).

State v. Evans, 237 Ariz. 231, 349 P.3d 205, ¶ 6 (2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Reyes, 238 Ariz. 575, 364 P.3d 1134, ¶ 5 (Ct. App. 2015) (determination of constitutional issues on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Nissley, 238 Ariz. 446, 362 P.3d 493, ¶ 24 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress blood draw reviewed *de novo*).

State v. Sisco, 238 Ariz. 229, 359 P.3d 1, ¶ 7 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Maciel, 238 Ariz. 200, 358 P.3d 621, ¶ 10 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress confession reviewed *de novo*).

State v. Foncette, 238 Ariz. 42, 356 P.3d 328, ¶ 11 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress, including whether search complied with Fourth Amendment, reviewed *de novo*).

State v. Cheatham, 237 Ariz. 502, 353 P.3d 382, ¶ 6 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Bennett, 237 Ariz. 356, 351 P.3d 363, ¶ 8 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Valenzuela, 237 Ariz. 307, 350 P.3d 811, ¶ 4 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Williams, 236 Ariz. 600, 343 P.3d 470, ¶ 14 (Ct. App. 2015) (trial court's ruling on **Rule 16.2(b)** motion to suppress reviewed *de novo* based on exclusionary rule principles).

State v. Greenberg, 236 Ariz. 592, 343 P.3d 462, ¶ 19 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed for clear error).

State v. Woods, 236 Ariz. 527, 342 P.3d 863, ¶¶ 1, 10, 16 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶ 8 (Ct. App. 2015) (sufficiency of evidence under **Rule 20** reviewed *de novo*).

State v. Felix, 237 Ariz. 280, 349 P.3d 1117, ¶ 30 (Ct. App. 2015) (sufficiency of evidence under **Rule 20** reviewed *de novo*).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶¶ 40, 47 (Ct. App. 2015) (motion for judgment of acquittal under **Rule 20** reviewed *de novo*).

State v. Veloz, 236 Ariz. 532, 342 P.3d 1272, ¶ 15 (Ct. App. 2015) (sufficiency of evidence under **Rule 20** reviewed *de novo*).

State v. Harm, 236 Ariz. 402, 340 P.3d 1110, ¶ 11 (Ct. App. 2015) (motion for judgment of acquittal under **Rule 20** and sufficiency of evidence reviewed *de novo*).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 63 (2015) (whether jury instructions under **Rule 21.1** accurately state the law reviewed de novo).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 83 (2015) (whether trial court properly instructed jurors under **Rule 21.1** reviewed de novo).

State v. Holle, 238 Ariz. 218, 358 P.3d 639, ¶ 6 (Ct. App. 2015) (whether jury instruction under **Rule 21.1** accurately states the law reviewed de novo).

State ex rel. Montgomery v. Rogers (Morgan), 237 Ariz. 419, 352 P.3d 451, ¶ 8 (Ct. App. 2015) (whether jury instructions under **Rule 21.1** accurately state the law reviewed de novo).

State v. Williams, 236 Ariz. 600, 343 P.3d 470, ¶ 6 (Ct. App. 2015) (whether jury instruction under **Rule 21.1** on focusing or targeting actions toward peace officer accurately stated law reviewed de novo).

State v. Juarez-Orci, 236 Ariz. 520, 342 P.3d 856, ¶ 12 (Ct. App. 2015) (whether jury instructions under **Rule 21.1** accurately state the law reviewed de novo).

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶¶ 12, 31 (Ct. App. 2015) (for motion for motion for new trial under **Rule 24.1**, questions of law, including constitutional issues, reviewed de novo).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 72 (2015) (under **Rule 31.17(b)** appellate court determines de novo whether evidence introduced at trial was sufficient to support conviction).

State v. Speers, 238 Ariz. 423, 361 P.3d 952, ¶ 10 (Ct. App. 2015) (under **Rule 32.1** appellate court determines de novo issues of law, such whether claim is precluded).

Arizona Rules of Civil Procedure.

31.13.c.sr.qol.030 Interpretation of the Arizona Rules of Civil Procedure is a question of law that is reviewed de novo.

Glazer v. State of Arizona, 237 Ariz. 160, 347 P.3d 1141, ¶ 29 (2015) (appellate court should review de novo grant or denial of a motion for judgment as a matter of law).

Arizona Rules of Evidence.

31.13.c.sr.ld.010 Trial court's legal determinations on a motion are reviewed either *de novo* or de novo.

State v. Leteve, 237 Ariz. 516, 354 P.3d 393, ¶ 18 (2015) (questions of law relating to admissibility of evidence reviewed de novo).

Burch & Cracchiolo v. Myers (Lund), 237 Ariz. 369, 351 P.3d 376, ¶ 14 (Ct. App. 2015) (ruling under **Rule 501** whether party has waived attorney-client privilege reviewed de novo).

Rule 31.13(c) Appellatebriefs—Contents—Standardofreview—Abuseofdiscretion review for factual, procedural, or equitable determinations that vary from case to case.

Rule 31.13(c)(1)(vi): “With respect to each contention raised on appeal, the proper standard of review on appeal shall be identified, with citations to relevant authority, at the outset of the discussion of that contention.”

31.13.c.sr.fd.010 Trial court’s factual determinations on a motion are reviewed for an abuse of discretion.

Arizona Rules of Criminal Procedure.

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶ 4 (Ct. App. 2015) (ruling on **Rule 6.3(b)** motion to withdraw reviewed for abuse of discretion).

Burch & Cracchiolo v. Myers (Lund), 237 Ariz. 369, 351 P.3d 376, ¶ 14 (Ct. App. 2015) (ruling on **Rule 6.4(c)** motion to disqualify counsel reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 10 (2015) (ruling on **Rule 8.5(b)** motion to continue; to show abuse of discretion; party must show prejudice).

State v. Dalton, ___ Ariz. ___, 366 P.3d 133, ¶ 22 (Ct. App. 2016) (ruling on **Rule 8.5(b)** motion to continue; appellate court will not review unless it appears trial court clearly abused its discretion).

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 62 (2015) (ruling on **Rule 10.1** motion for change of judge reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 29 (2015) (ruling on **Rule 13.4(a)** motion to sever charges reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 91 (2015) (exclusion of evidence under **Rule 15.7(a)(1)** for discovery violation reviewed for abuse of discretion).

State v. Wilson, 237 Ariz. 296, 350 P.3d 800, ¶ 7 (2015) (trial court’s denial of **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Evans, 237 Ariz. 231, 349 P.3d 205, ¶ 6 (2015) (trial court’s factual findings on **Rule 16.2(b)** motion to suppress (stop and search) reviewed for abuse of discretion).

State v. Reyes, 238 Ariz. 575, 364 P.3d 1134, ¶ 5 (Ct. App. 2015) (trial court’s denial of **Rule 16.2(b)** motion to suppress blood draw reviewed for abuse of discretion).

State v. Nissley, 238 Ariz. 446, 362 P.3d 493, ¶ 24 (Ct. App. 2015) (trial court’s denial of **Rule 16.2(b)** motion to suppress confession reviewed for abuse of discretion with deference to trial court’s factual findings).

State v. Maciel, 238 Ariz. 200, 358 P.3d 621, ¶ 10 (Ct. App. 2015) (trial court’s denial of **Rule 16.2(b)** motion to suppress blood draw reviewed for abuse of discretion).

State v. Sisco, 238 Ariz. 229, 359 P.3d 1, ¶ 7 (Ct. App. 2015) (court will not disturb trial court’s ruling on **Rule 16.2(b)** motion to suppress (search) unless trial court clearly has abused discretion).

State v. Foncette, 238 Ariz. 42, 356 P.3d 328, ¶ 23 (Ct. App. 2015) (finding of good cause for issuance of night-time search warrant in trial court’s denial of **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Foncette, 238 Ariz. 42, 356 P.3d 328, ¶ 11 (Ct. App. 2015) (trial court's denial of **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion with deference to trial court's factual findings).

State v. Cheatham, 237 Ariz. 502, 353 P.3d 382, ¶ 6 (Ct. App. 2015) (trial court's denial of **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Ontiveros-Loya, 237 Ariz. 472, 352 P.3d 941, ¶ 5 (Ct. App. 2015) (trial court's ruling on **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Bennett, 237 Ariz. 356, 351 P.3d 363, ¶ 8 (Ct. App. 2015) (trial court's factual findings on **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Cornman, 237 Ariz. 350, 351 P.3d 357, ¶ 10 (Ct. App. 2015) (trial court's denial of **Rule 16.2(b)** motion to suppress (statements made at police station) reviewed for abuse of discretion).

State v. Valenzuela, 237 Ariz. 307, 350 P.3d 811, ¶ 4 (Ct. App. 2015) (trial court's ruling on **Rule 16.2(b)** motion to suppress (blood draw and breath test) reviewed for abuse of discretion).

State v. Greenberg, 236 Ariz. 592, 343 P.3d 462, ¶ 19 (Ct. App. 2015) (trial court's factual determinations on **Rule 16.2(b)** motion to suppress (confession) reviewed in light most favorable to upholding ruling).

State v. Woods, 236 Ariz. 527, 342 P.3d 863, ¶¶ 1, 10 (Ct. App. 2015) (trial court's factual determinations on **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶ 17 (Ct. App. 2015) (trial court's factual determinations on **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶ 8 (Ct. App. 2015) (ruling on **Rule 16.6(b)** motion to dismiss (outrageous government conduct) reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 19 (2015) (ruling on **Rule 18.5(d)** voir dire reviewed for abuse of discretion).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 71 (2015) (ruling on **Rule 18.5(f)** challenge for cause reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 22 (2015) (ruling on **Rule 18.5(f)** challenge for cause reviewed for abuse of discretion).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 33 (2015) (control of final arguments under **Rule 19.1(a)** reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 53 (2015) (ruling under **Rule 19.1(a)** whether to allow re-cross-examination reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 56 (2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial for admission of evidence reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 105 (2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial when jurors expressed concern for their safety reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 112 (2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial for juror misconduct reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 146 (2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial for prosecutorial misconduct reviewed for abuse of discretion).

State v. Woods, 237 Ariz. 214, 348 P.3d 910, ¶ 4 (Ct. App. 2015) (ruling under **Rule 19.1(a)** to grant motion to mistrial reviewed for abuse of discretion).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶ 27 (Ct. App. 2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial reviewed for abuse of discretion).

State v. Maciel, 238 Ariz. 200, 358 P.3d 621, ¶ 27 (Ct. App. 2015) (motion for judgment of acquittal under **Rule 20** based on *corpus delicti* doctrine reviewed for abuse of discretion).

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 38 (2015) (ruling under **Rule 21.3** whether to give *Willits* instruction reviewed for abuse of discretion).

State v. Vassell, 238 Ariz. 281, 359 P.3d 1025, ¶ 8 (Ct. App. 2015) (ruling under **Rule 21.3** refusing to give jury instruction on justification based on claim of unlawful use of force reviewed for abuse of discretion).

State v. Gray, 238 Ariz. 147, 357 P.3d 831, ¶ 5 (Ct. App. 2015) (ruling under **Rule 21.3** whether to give jury instruction on entrapment reviewed for abuse of discretion).

State ex rel. Montgomery v. Rogers (Morgan), 237 Ariz. 419, 352 P.3d 451, ¶ 8 (Ct. App. 2015) (ruling under **Rule 21.3** for jury instruction on effect of acquittal of extreme DUI reviewed for abuse of discretion).

State v. Cornman, 237 Ariz. 350, 351 P.3d 357, ¶ 17 (Ct. App. 2015) (ruling under **Rule 21.3** whether to give *corpus delicti* jury instruction on corroboration reviewed for abuse of discretion).

State v. Williams, 236 Ariz. 600, 343 P.3d 470, ¶ 6 (Ct. App. 2015) (ruling under **Rule 21.3** whether to give jury instruction reviewed for abuse of discretion).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶ 32 (Ct. App. 2015) (ruling under **Rule 21.3** whether to give *Willits* instruction reviewed for abuse of discretion).

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶¶ 12, 31 (Ct. App. 2015) (ruling on **Rule 24.1** motion for new trial reviewed for abuse of discretion).

State v. Fischer, 238 Ariz. 309, 360 P.3d 105, ¶¶ 23–24 (Ct. App. 2015) (ruling on **Rule 24.1** motion for new trial reviewed for abuse of discretion; if review of record shows evidence fully sustains conviction, it is abuse of discretion to grant new trial).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶¶ 40, 47 (Ct. App. 2015) (ruling on **Rule 24.1** motion for new trial reviewed for abuse of discretion).

State v. Harm, 236 Ariz. 402, 340 P.3d 1110, ¶ 11 (Ct. App. 2015) (ruling on **Rule 24.1** motion for new trial reviewed for abuse of discretion).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 63 (2015) (defendant's willingness to waive parole eligibility under **Rule 26.10(b)** reviewed for abuse of discretion).

State v. Speers, 238 Ariz. 423, 361 P.3d 952, ¶ 10 (Ct. App. 2015) (summary denial of petition for post-conviction relief under **Rule 32.1** reviewed for abuse of discretion).

State v. Roseberry, 237 Ariz. 507, 353 P.3d 847, ¶ 7 (2015) (ruling on petition for post-conviction relief under **Rule 32.1** reviewed for abuse of discretion).

State v. Werderman, 237 Ariz. 342, 350 P.3d 846, ¶ 4 (Ct. App. 2015) (ruling on petition for post-conviction relief under **Rule 32.1(g)** reviewed for abuse of discretion).

Arizona Rules of Evidence.

31.13.c.sr.Id.010 Trial court's rulings on the admission and exclusion of evidence are reviewed for abuse of discretion.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 71 (2015) (admission of remainder of statement under **Rule 106**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 46 (2015) (admission of evidence of GHB in victim's blood under **Rule 401**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 54 (2015) (admission of recordings of telephone calls from jail under **Rule 401**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 60 (2015) (photographs under **Rule 401**).

State v. Felix, 237 Ariz. 280, 349 P.3d 1117, ¶ 38 (Ct. App. 2015) (admission of photographs under **Rule 401**).

State v. Abdi, 236 Ariz. 609, 343 P.3d 921, ¶ 8 (Ct. App. 2015) (exclusion of evidence of valid caregiver registration card issued by Oregon Health Authority under **Rule 401**).

State v. Cornman, 237 Ariz. 350, 351 P.3d 357, ¶ 25 (Ct. App. 2015) (weighing prejudicial effect against probative value under **Rule 403**).

State v. Leteveh, 237 Ariz. 516, 354 P.3d 393, ¶ 18 (2015) (exclusion of character evidence under **Rule 404** reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 50, 56 (2015) (admission of other act evidence under **Rule 404(b)**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 53 (2015) (whether to allow re-cross-examination under **Rule 611(b)**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 101 (2015) (scope of cross-examination under **Rule 611(b)**).

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 7 (2015) (preclusion of expert testimony under **Rule 701**).

State v. Ortiz, 238 Ariz. 329, 360 P.3d 125, ¶ 5 (Ct. App. 2015) (admission of expert witness testimony under **Rule 702** reviewed for abuse of discretion).

Jaynes v. McConnell, 238 Ariz. 211, 358 P.3d 632, ¶ 15 (Ct. App. 2015) (exclusion of evidence of expert witness's personal practices under **Rule 702** reviewed for abuse of discretion).

State v. Bernstein (Herman), 237 Ariz. 226, 349 P.3d 200, ¶¶ 9, 19 (2015) (admission of expert testimony under **Rule 702(d)**; court held trial court used wrong legal standard and thus abused discretion in excluding evidence).

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 7 (2015) (sufficiency of evidence of *corpus delicti* under **Rule 801(d)(2)(A)**).

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State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶¶ 56–57 (Ct. App. 2015) (in reply brief, defendant argued portion of prosecutor’s argument to jurors was misconduct; under assumption that defendant had not waived this issue, court found no error).

State v. Cheatham, 237 Ariz. 502, 353 P.3d 382, ¶ 11 n.4 (Ct. App. 2015) (in reply brief, defendant contended state’s argument about marijuana “lacks merit” when compared to possession of prescription drugs; because defendant raised issue for first time in reply on appeal and failed otherwise to develop argument, defendant waived issue, and court did not address it), *rev. granted*, CR–15–0286–PR (Mar. 15, 2016).

Rule 31.16 Appeal by state is inoperative to stay order in favor of defendant.

31.16.010 Although this rule allows the state to obtain a stay while appealing the trial court’s order granting a new trial, it does not require the state to keep the charges intact and ask for a stay.

State v. Fischer, 238 Ariz. 309, 360 P.3d 105, ¶¶ 8–11 (Ct. App. 2015) (when trial court granted motion for new trial, state dismissed charges and appealed trial court’s ruling; court rejected defendant’s contention that appeal was moot because state had dismissed charges), *rev. granted*, CR–15–0265–PR (Mar. 15, 2016).

Rule 31.17(b) Disposition and ancillary orders—Disposition, in general.

31.17.b.010 An appellate court determines *de novo* whether the evidence introduced at trial was sufficient to support the conviction.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 72–75 (2015) (court concluded evidence was sufficient to support convictions for sexual assault and kidnapping).

RULE 32. OTHER POST-CONVICTION RELIEF.

Rule 32.1(g) Scope of remedy—Significant change in the law.

32.1.g.010 A “significant change in the law” will occur when an appellate court overrules previously binding case law or when a statutory or constitutional amendment makes a definite break from prior case law, but does not occur when a case merely interprets a statutory or constitutional provision already in effect.

State v. Werderman, 237 Ariz. 342, 350 P.3d 846, ¶¶ 4–11 (Ct. App. 2015) (court concluded *State ex rel. Montgomery v. Harris (Shilgevorkyan)* did not overrule previously binding case law and thus did not entitle defendant to relief under Rule 32.1(g)).

Rule 32.4 Commencement of proceedings.

Rule 32.4(a) Commencement of proceedings—Form, filing, and service of petition.

32.4.a.010 Rule 32.4(a) provides that the proceedings may be commenced “within 90 days of the entry of judgment and sentence,” and A.R.S. § 13–4234(G) provides the time limits for filing a notice and petition are jurisdictional.

State v. Goldin, 239 Ariz. 12, 365 P.3d 364, ¶¶ 14–26 (Ct. App. Dec. 22, 2015) (defendant sentenced 1/31/13; on 2/10/14, defendant filed notice of post-conviction relief, which trial court dismissed as untimely; on 4/16/14, defendant filed second notice of post-conviction relief asserting claim of ineffective assistance of counsel; court held under *State v. Diaz*, 236 Ariz. 361, 340 P.3d 1069 (2014) trial court should have considered defendant’s petition).

ARTICLE X. ADDITIONAL RULES.

SPECIAL ACTIONS.

Rule 1 Nature of the special action.

1.sa.100 Special action review is available when the party does not have an equally plain, speedy, and adequate remedy by appeal.

State ex rel. Montgomery v. Padilla (Simcox), 238 Ariz. 560, 364 P.3d 479, ¶ 11 (Ct. App. 2015) (because state did not have equally plain, speedy, and adequate remedy by appeal to seek review of trial court's ruling that defendant could question witnesses about statement victim purportedly made that another person (N) had touched her inappropriately, special action review was appropriate).

State v. Liwski (Gillie), 238 Ariz. 184, 358 P.3d 605, ¶ 4 (Ct. App. 2015) (because state did not have equally plain, speedy, and adequate remedy by appeal to seek review of trial court's ruling that defendant could assert defense under AMMA, special action review was appropriate).

State v. Lee (Ray), 238 Ariz. 19, 355 P.3d 621, ¶ 3 (Ct. App. 2015) (because state did not have right to appeal trial court's order that each victim would be required to be interviewed about what happened to other three victims, state had to seek review by petition for special action).

State v. Steinle (Moran), 237 Ariz. 531, 354 P.3d 408, ¶ 5 (Ct. App. 2015) (state did not have speedy or adequate remedy by appeal for review of trial court's order that it would not admit edited or cropped video because full copy was not available), *rev. granted*, CV-15-0263-PR (Feb. 9, 2016).

State ex rel. Montgomery v. Rogers (Morgan), 237 Ariz. 419, 352 P.3d 451, ¶ 6 (Ct. App. 2015) (state had no adequate remedy on appeal to review trial court's jury instruction).

Allen v. Sanders, 237 Ariz. 93, 347 P.3d 30, ¶ 5 (Ct. App. 2015) (when trial court ruled Victim's Bill of Rights precluded her from interviewing witness, defendant had no equally plain, speedy, or adequate remedy by appeal).

State v. Hansen, 237 Ariz. 61, 345 P.3d 116, ¶ 9 (Ct. App. 2015) (because state had no remedy by appeal from an order granting a mistrial, court chose to exercise its special action jurisdiction).

Lindsay R. v. Cohen (Meyn), 236 Ariz. 565, 343 P.3d 435, ¶ 5 (Ct. App. 2015) (victim had no right to appeal trial court's order that victim's attorney could not substitute for prosecutor in restitution proceedings).

1.sa.300 Special action is appropriate when the matter (1) involved only a legal question, (2) was of first impression, (3) was of statewide importance, (4) was likely to recur, or (5) had received inconsistent decisions by different trial courts.

State ex rel. Montgomery v. Padilla (Simcox), 238 Ariz. 560, 364 P.3d 479, ¶ 11 (Ct. App. 2015) (whether defendant could question witnesses about statement victim purportedly made that another person (N) had touched her inappropriately (3) was of statewide importance and (4) was likely to recur).

State v. Liwski (Gillie), 238 Ariz. 184, 358 P.3d 605, ¶ 4 (Ct. App. 2015) (whether defendant could assert defense under AMMA (1) involved only legal question, (2) was of first impression, and (3) was of statewide importance).

State ex rel. Polk v. Campbell (Krapts), 238 Ariz. 109, 357 P.3d 144, ¶ 4 (Ct. App. 2015) (whether enhanced punishment under 13–3212(G) applied when victim was 18 or older but defendant thought victim was 15 to 17, or applied only if victim was actually 15 to 17, (3) was of statewide importance, and (4) was likely to recur), *rev. granted*, CR–15–0303–PR (Feb. 9, 2016).

State v. Steinle (Moran), 237 Ariz. 531, 354 P.3d 408, ¶ 5 (Ct. App. 2015) (whether edited or cropped video was “statement” (2) was of first impression), *rev. granted*, CV–15–0263–PR (Feb. 9, 2016).

State ex rel. Montgomery v. Rogers (Morgan), 237 Ariz. 419, 352 P.3d 451, ¶ 6 (Ct. App. 2015) (whether jury instruction was correct (1) involved only legal question).

Allen v. Sanders, 237 Ariz. 93, 347 P.3d 30, ¶ 5 (Ct. App. 2015) (what is meant by “affinity” under Victim’s Bill of Rights (1) involved only legal question).

Lindsay R. v. Cohen (Meyn), 236 Ariz. 565, 343 P.3d 435, ¶ 5 (Ct. App. 2015) (whether victim’s attorney could substitute for prosecutor in restitution proceedings (1) involved only legal question).

RULES OF THE ARIZONA SUPREME COURT.

RULES OF PROFESSIONAL CONDUCT.

Rule 38(d) Special Exceptions to Standard Examination and Admission Process—Clinical Law Professors and Law Students.

38.d.010 Under Rule 38(d)(5)(C)(I)(c), for any criminal matter in superior court or any felony matter in any court, the supervising attorney or designated attorney must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

State v. Terrazas, 237 Ariz. 170, 347 P.3d 1151, ¶¶ 2–5 (Ct. App. 2015) (at first trial, defendant was represented by attorney and Rule 38(d) certified law student; trial court declared mistrial; at second trial, defendant was represented by same attorney and same law student, who had now taken bar examination, but had not yet been admitted to practice; because law student’s certification had expired, defendant contended he was denied right to counsel; court held that, because supervising attorney was present throughout the proceedings and was fully responsible for them, defendant received his right to counsel).

Rule 31.13(c) Appellate briefs—Contents—Standard of review.

Something is discretionary because it is based on an assessment of conflicting procedural, factual or equitable considerations which vary from case to case and which can be better determined or resolved by the trial judge, who has a more immediate grasp of all the facts of the case, an opportunity to see the parties, lawyers and witnesses, and who can better assess the impact of what occurs before him. Where a decision is made on that basis, it is truly discretionary and we will not substitute our judgment for that of the trial judge; we will not second-guess. Where, however, the facts or inferences from them are not in dispute and where there are few or no conflicting procedural, factual or equitable considerations, the resolution of the question is one of law or logic. Then it is our final responsibility to determine law and policy and it becomes our duty to “look over the shoulder” of the trial judge and, if appropriate, substitute our judgment for his or hers.

State v. Chapple, 135 Ariz. 281, 297 n.18, 660 P.2d 1208, 1224 n.18 (1983) (citation omitted).

Rule 31.13(c) Appellate briefs—Contents—Standard of review—*De novo* or *de novo* review for legal or logical determinations.

Rule 31.13(c)(1)(vi): “With respect to each contention raised on appeal, the proper standard of review on appeal shall be identified, with citations to relevant authority, at the outset of the discussion of that contention.”

31.13.c.sr.ld.010 Interpretation of a constitutional right is a question of law that is reviewed either *de novo* or *de novo*.

State v. Ortiz, 238 Ariz. 329, 360 P.3d 125, ¶ 27 (Ct. App. 2015) (challenges to admissibility based on Confrontation Clause reviewed *de novo*).

State v. Ortiz, 238 Ariz. 329, 360 P.3d 125, ¶ 60 (Ct. App. 2015) (whether trial court or jurors must decide whether offenses had been committed on separate occasions reviewed *de novo*).

Allen v. Sanders, 237 Ariz. 93, 347 P.3d 30, ¶ 5 (Ct. App. 2015) (what is meant by “affinity” under Victim’s Bill of Rights was question of law that is reviewed *de novo*).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶ 8 (Ct. App. 2015) (constitutional issues in motion to dismiss reviewed *de novo*).

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶ 4 (Ct. App. 2015) (constitutional right to counsel reviewed *de novo*).

31.13.c.sr.qol.020 Interpretation of a statute is a question of law that is reviewed either *de novo* or *de novo*.

Dobson v. McClennen, 238 Ariz. 389, 361 P.3d 374, ¶ 7 (2015) (interpretation of immunity provision of AMMA, A.R.S. § 36–2802(D), reviewed *de novo*).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 53 (2015) (interpretation of A.R.S. § 13–752(K), which provides for second jury if first jury is unable to reach verdict at penalty phase, reviewed *de novo*).

Glazer v. State of Arizona, 237 Ariz. 160, 347 P.3d 1141, ¶ 12 (2015) (interpretation of A.R.S. § 8–820.03, which provides affirmative defense for injuries arising out of plan or design of roadways, reviewed *de novo*).

Reed-Kaliher v. Hoggate, 237 Ariz. 119, 347 P.3d 136, ¶ 6 (2015) (whether immunity provision of A.R.S. § 36–2811(B) precluded trial court from imposing as condition of probation that person not use marijuana, reviewed de novo).

State ex rel. Montgomery v. Padilla (Simcox), 238 Ariz. 560, 364 P.3d 479, ¶ 12 (Ct. App. 2015) (construction of § 13–1421, which allows for admission of evidence relating to victim’s chastity, reviewed de novo).

State v. Simmons, 238 Ariz. 503, 363 P.3d 120, ¶ 12 (Ct. App. 2015) (construction of § 13–3417, which prohibits use of wire or electronic communication in drug related transactions, reviewed de novo).

State v. Burke, 238 Ariz. 322, 360 P.3d 118, ¶ 4 (Ct. App. 2015) (whether A.R.S. § 28–622(A) is unconstitutionally vague reviewed de novo).

State v. Reyes, 238 Ariz. 304, 360 P.3d 100, ¶ 8 (Ct. App. 2015) (whether A.R.S. § 13–3016(B) (which requires communications service provider, pursuant to search warrant, to disclose communications held in electronic storage) requires notice to subscriber or party, reviewed de novo).

State v. Liwski (Gillie), 238 Ariz. 184, 358 P.3d 605, ¶ 5 (Ct. App. 2015) (interpretation of provision in AMMA reviewed de novo).

State v. Gray, 238 Ariz. 147, 357 P.3d 831, ¶ 5 (Ct. App. 2015) (construction and requirements of entrapment statute reviewed de novo).

State ex rel. Polk v. Campbell (Kraps), 238 Ariz. 109, 357 P.3d 144, ¶ 5 (Ct. App. 2015) (whether enhanced punishment under 13–3212(G) applied when victim was 18 or older but defendant thought victim was 15 to 17 years of age, or applied only if victim was actually 15 to 17 years of age, reviewed de novo), *rev. granted*, CR–15–0303–PR (Feb. 9, 2016).

City of Scottsdale v. State, 237 Ariz. 467, 352 P.3d 936, ¶ 9 (Ct. App. 2015) (whether state statute preempted city ordinance reviewed de novo).

State v. Matlock, 237 Ariz. 331, 350 P.3d 835, ¶ 7 (Ct. App. 2015) (whether immunity provision of A.R.S. § 36–2811(B) provides immunity for registered qualifying patient who provides marijuana to another registered qualifying patient in return for something of value, reviewed de novo).

State v. Abdi, 236 Ariz. 609, 343 P.3d 921, ¶ 8 (Ct. App. 2015) (whether A.R.S. § 36–2804.03(C) applied to out-of-state registered caregiver reviewed de novo).

State v. Pledger, 236 Ariz. 469, 341 P.3d 511, ¶ 8 (Ct. App. 2015) (meaning of language in A.R.S. § 13–1204(E) (whether defendant must know victim is peace officer) reviewed de novo).

31.13.c.sr.qol.030 Interpretation of the Arizona Rules of Criminal Procedure and Arizona Rules of Evidence is a question of law that is reviewed either *de novo* or de novo.

State v. Bernstein (Herman), 237 Ariz. 226, 349 P.3d 200, ¶ 9 (2015) (court interpreted **Rule 702(d)**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 124 (2015) (court interpreted **Rule 26.3**).

Arizona Rules of Criminal Procedure.

31.13.c.sr.ld.010 Trial court's legal determinations on a motion are reviewed either *de novo* or *de novo*.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 83 (2015) (whether charges are multiplicative (multiplicitous) under **Rule 13.3(a)** reviewed *de novo*).

State v. Evans, 237 Ariz. 231, 349 P.3d 205, ¶ 6 (2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Reyes, 238 Ariz. 575, 364 P.3d 1134, ¶ 5 (Ct. App. 2015) (determination of constitutional issues on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Nissley, 238 Ariz. 446, 362 P.3d 493, ¶ 24 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress blood draw reviewed *de novo*).

State v. Sisco, 238 Ariz. 229, 359 P.3d 1, ¶ 7 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Maciel, 238 Ariz. 200, 358 P.3d 621, ¶ 10 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress confession reviewed *de novo*).

State v. Foncette, 238 Ariz. 42, 356 P.3d 328, ¶ 11 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress, including whether search complied with Fourth Amendment, reviewed *de novo*).

State v. Cheatham, 237 Ariz. 502, 353 P.3d 382, ¶ 6 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Bennett, 237 Ariz. 356, 351 P.3d 363, ¶ 8 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Valenzuela, 237 Ariz. 307, 350 P.3d 811, ¶ 4 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. Williams, 236 Ariz. 600, 343 P.3d 470, ¶ 14 (Ct. App. 2015) (trial court's ruling on **Rule 16.2(b)** motion to suppress reviewed *de novo* based on exclusionary rule principles).

State v. Greenberg, 236 Ariz. 592, 343 P.3d 462, ¶ 19 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed for clear error).

State v. Woods, 236 Ariz. 527, 342 P.3d 863, ¶¶ 1, 10, 16 (Ct. App. 2015) (trial court's legal determinations on **Rule 16.2(b)** motion to suppress reviewed *de novo*).

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶ 8 (Ct. App. 2015) (sufficiency of evidence under **Rule 20** reviewed *de novo*).

State v. Felix, 237 Ariz. 280, 349 P.3d 1117, ¶ 30 (Ct. App. 2015) (sufficiency of evidence under **Rule 20** reviewed *de novo*).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶¶ 40, 47 (Ct. App. 2015) (motion for judgment of acquittal under **Rule 20** reviewed *de novo*).

State v. Veloz, 236 Ariz. 532, 342 P.3d 1272, ¶ 15 (Ct. App. 2015) (sufficiency of evidence under **Rule 20** reviewed *de novo*).

State v. Harm, 236 Ariz. 402, 340 P.3d 1110, ¶ 11 (Ct. App. 2015) (motion for judgment of acquittal under **Rule 20** and sufficiency of evidence reviewed *de novo*).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 63 (2015) (whether jury instructions under **Rule 21.1** accurately state the law reviewed de novo).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 83 (2015) (whether trial court properly instructed jurors under **Rule 21.1** reviewed de novo).

State v. Holle, 238 Ariz. 218, 358 P.3d 639, ¶ 6 (Ct. App. 2015) (whether jury instruction under **Rule 21.1** accurately states the law reviewed de novo).

State ex rel. Montgomery v. Rogers (Morgan), 237 Ariz. 419, 352 P.3d 451, ¶ 8 (Ct. App. 2015) (whether jury instructions under **Rule 21.1** accurately state the law reviewed de novo).

State v. Williams, 236 Ariz. 600, 343 P.3d 470, ¶ 6 (Ct. App. 2015) (whether jury instruction under **Rule 21.1** on focusing or targeting actions toward peace officer accurately stated law reviewed de novo).

State v. Juarez-Orci, 236 Ariz. 520, 342 P.3d 856, ¶ 12 (Ct. App. 2015) (whether jury instructions under **Rule 21.1** accurately state the law reviewed de novo).

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶¶ 12, 31 (Ct. App. 2015) (for motion for new trial under **Rule 24.1**, questions of law, including constitutional issues, reviewed de novo).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 72 (2015) (under **Rule 31.17(b)** appellate court determines de novo whether evidence introduced at trial was sufficient to support conviction).

State v. Speers, 238 Ariz. 423, 361 P.3d 952, ¶ 10 (Ct. App. 2015) (under **Rule 32.1** appellate court determines de novo issues of law, such whether claim is precluded).

Arizona Rules of Civil Procedure.

31.13.c.sr.qol.030 Interpretation of the Arizona Rules of Civil Procedure is a question of law that is reviewed de novo.

Glazer v. State of Arizona, 237 Ariz. 160, 347 P.3d 1141, ¶ 29 (2015) (appellate court should review de novo grant or denial of a motion for judgment as a matter of law).

Arizona Rules of Evidence.

31.13.c.sr.ld.010 Trial court's legal determinations on a motion are reviewed either *de novo* or de novo.

State v. Leteve, 237 Ariz. 516, 354 P.3d 393, ¶ 18 (2015) (questions of law relating to admissibility of evidence reviewed de novo).

Burch & Cracchiolo v. Myers (Lund), 237 Ariz. 369, 351 P.3d 376, ¶ 14 (Ct. App. 2015) (ruling under **Rule 501** whether party has waived attorney-client privilege reviewed de novo).

Rule 31.13(c) Appellate briefs—Contents—Standard of review—Abuse of discretion review for factual, procedural, or equitable determinations that vary from case to case.

Rule 31.13(c)(1)(vi): “With respect to each contention raised on appeal, the proper standard of review on appeal shall be identified, with citations to relevant authority, at the outset of the discussion of that contention.”

31.13.c.sr.fd.010 Trial court’s factual determinations on a motion are reviewed for an abuse of discretion.

Arizona Rules of Criminal Procedure.

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶ 4 (Ct. App. 2015) (ruling on **Rule 6.3(b)** motion to withdraw reviewed for abuse of discretion).

Burch & Cracchiolo v. Myers (Lund), 237 Ariz. 369, 351 P.3d 376, ¶ 14 (Ct. App. 2015) (ruling on **Rule 6.4(c)** motion to disqualify counsel reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 10 (2015) (ruling on **Rule 8.5(b)** motion to continue; to show abuse of discretion; party must show prejudice).

State v. Dalton, ___ Ariz. ___, 366 P.3d 133, ¶ 22 (Ct. App. 2016) (ruling on **Rule 8.5(b)** motion to continue; appellate court will not review unless it appears trial court clearly abused its discretion).

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 62 (2015) (ruling on **Rule 10.1** motion for change of judge reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 29 (2015) (ruling on **Rule 13.4(a)** motion to sever charges reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 91 (2015) (exclusion of evidence under **Rule 15.7(a)(1)** for discovery violation reviewed for abuse of discretion).

State v. Wilson, 237 Ariz. 296, 350 P.3d 800, ¶ 7 (2015) (trial court’s denial of **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Evans, 237 Ariz. 231, 349 P.3d 205, ¶ 6 (2015) (trial court’s factual findings on **Rule 16.2(b)** motion to suppress (stop and search) reviewed for abuse of discretion).

State v. Reyes, 238 Ariz. 575, 364 P.3d 1134, ¶ 5 (Ct. App. 2015) (trial court’s denial of **Rule 16.2(b)** motion to suppress blood draw reviewed for abuse of discretion).

State v. Nissley, 238 Ariz. 446, 362 P.3d 493, ¶ 24 (Ct. App. 2015) (trial court’s denial of **Rule 16.2(b)** motion to suppress confession reviewed for abuse of discretion with deference to trial court’s factual findings).

State v. Maciel, 238 Ariz. 200, 358 P.3d 621, ¶ 10 (Ct. App. 2015) (trial court’s denial of **Rule 16.2(b)** motion to suppress blood draw reviewed for abuse of discretion).

State v. Sisco, 238 Ariz. 229, 359 P.3d 1, ¶ 7 (Ct. App. 2015) (court will not disturb trial court’s ruling on **Rule 16.2(b)** motion to suppress (search) unless trial court clearly has abused discretion).

State v. Foncette, 238 Ariz. 42, 356 P.3d 328, ¶ 23 (Ct. App. 2015) (finding of good cause for issuance of night-time search warrant in trial court’s denial of **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Foncette, 238 Ariz. 42, 356 P.3d 328, ¶ 11 (Ct. App. 2015) (trial court's denial of **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion with deference to trial court's factual findings).

State v. Cheatham, 237 Ariz. 502, 353 P.3d 382, ¶ 6 (Ct. App. 2015) (trial court's denial of **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Ontiveros-Loya, 237 Ariz. 472, 352 P.3d 941, ¶ 5 (Ct. App. 2015) (trial court's ruling on **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Bennett, 237 Ariz. 356, 351 P.3d 363, ¶ 8 (Ct. App. 2015) (trial court's factual findings on **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Cornman, 237 Ariz. 350, 351 P.3d 357, ¶ 10 (Ct. App. 2015) (trial court's denial of **Rule 16.2(b)** motion to suppress (statements made at police station) reviewed for abuse of discretion).

State v. Valenzuela, 237 Ariz. 307, 350 P.3d 811, ¶ 4 (Ct. App. 2015) (trial court's ruling on **Rule 16.2(b)** motion to suppress (blood draw and breath test) reviewed for abuse of discretion).

State v. Greenberg, 236 Ariz. 592, 343 P.3d 462, ¶ 19 (Ct. App. 2015) (trial court's factual determinations on **Rule 16.2(b)** motion to suppress (confession) reviewed in light most favorable to upholding ruling).

State v. Woods, 236 Ariz. 527, 342 P.3d 863, ¶¶ 1, 10 (Ct. App. 2015) (trial court's factual determinations on **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Coven, 236 Ariz. 393, 340 P.3d 1101, ¶ 17 (Ct. App. 2015) (trial court's factual determinations on **Rule 16.2(b)** motion to suppress (search) reviewed for abuse of discretion).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶ 8 (Ct. App. 2015) (ruling on **Rule 16.6(b)** motion to dismiss (outrageous government conduct) reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 19 (2015) (ruling on **Rule 18.5(d)** voir dire reviewed for abuse of discretion).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 71 (2015) (ruling on **Rule 18.5(f)** challenge for cause reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 22 (2015) (ruling on **Rule 18.5(f)** challenge for cause reviewed for abuse of discretion).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 33 (2015) (control of final arguments under **Rule 19.1(a)** reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 53 (2015) (ruling under **Rule 19.1(a)** whether to allow re-cross-examination reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 56 (2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial for admission of evidence reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 105 (2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial when jurors expressed concern for their safety reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 112 (2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial for juror misconduct reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 146 (2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial for prosecutorial misconduct reviewed for abuse of discretion).

State v. Woods, 237 Ariz. 214, 348 P.3d 910, ¶ 4 (Ct. App. 2015) (ruling under **Rule 19.1(a)** to grant motion to mistrial reviewed for abuse of discretion).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶ 27 (Ct. App. 2015) (ruling under **Rule 19.1(a)** to deny motion to mistrial reviewed for abuse of discretion).

State v. Maciel, 238 Ariz. 200, 358 P.3d 621, ¶ 27 (Ct. App. 2015) (motion for judgment of acquittal under **Rule 20** based on *corpus delicti* doctrine reviewed for abuse of discretion).

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 38 (2015) (ruling under **Rule 21.3** whether to give *Willits* instruction reviewed for abuse of discretion).

State v. Vassell, 238 Ariz. 281, 359 P.3d 1025, ¶ 8 (Ct. App. 2015) (ruling under **Rule 21.3** refusing to give jury instruction on justification based on claim of unlawful use of force reviewed for abuse of discretion).

State v. Gray, 238 Ariz. 147, 357 P.3d 831, ¶ 5 (Ct. App. 2015) (ruling under **Rule 21.3** whether to give jury instruction on entrapment reviewed for abuse of discretion).

State ex rel. Montgomery v. Rogers (Morgan), 237 Ariz. 419, 352 P.3d 451, ¶ 8 (Ct. App. 2015) (ruling under **Rule 21.3** for jury instruction on effect of acquittal of extreme DUI reviewed for abuse of discretion).

State v. Cornman, 237 Ariz. 350, 351 P.3d 357, ¶ 17 (Ct. App. 2015) (ruling under **Rule 21.3** whether to give *corpus delicti* jury instruction on corroboration reviewed for abuse of discretion).

State v. Williams, 236 Ariz. 600, 343 P.3d 470, ¶ 6 (Ct. App. 2015) (ruling under **Rule 21.3** whether to give jury instruction reviewed for abuse of discretion).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶ 32 (Ct. App. 2015) (ruling under **Rule 21.3** whether to give *Willits* instruction reviewed for abuse of discretion).

State v. West, 238 Ariz. 482, 362 P.3d 1049, ¶¶ 12, 31 (Ct. App. 2015) (ruling on **Rule 24.1** motion for new trial reviewed for abuse of discretion).

State v. Fischer, 238 Ariz. 309, 360 P.3d 105, ¶¶ 23–24 (Ct. App. 2015) (ruling on **Rule 24.1** motion for new trial reviewed for abuse of discretion; if review of record shows evidence fully sustains conviction, it is abuse of discretion to grant new trial).

State v. Williamson, 236 Ariz. 550, 343 P.3d 1, ¶¶ 40, 47 (Ct. App. 2015) (ruling on **Rule 24.1** motion for new trial reviewed for abuse of discretion).

State v. Harm, 236 Ariz. 402, 340 P.3d 1110, ¶ 11 (Ct. App. 2015) (ruling on **Rule 24.1** motion for new trial reviewed for abuse of discretion).

State v. Lynch, 238 Ariz. 84, 357 P.3d 119, ¶ 63 (2015) (defendant's willingness to waive parole eligibility under **Rule 26.10(b)** reviewed for abuse of discretion).

State v. Speers, 238 Ariz. 423, 361 P.3d 952, ¶ 10 (Ct. App. 2015) (summary denial of petition for post-conviction relief under **Rule 32.1** reviewed for abuse of discretion).

State v. Roseberry, 237 Ariz. 507, 353 P.3d 847, ¶ 7 (2015) (ruling on petition for post-conviction relief under **Rule 32.1** reviewed for abuse of discretion).

State v. Werderman, 237 Ariz. 342, 350 P.3d 846, ¶ 4 (Ct. App. 2015) (ruling on petition for post-conviction relief under **Rule 32.1(g)** reviewed for abuse of discretion).

Arizona Rules of Evidence.

31.13.c.sr.Id.010 Trial court's rulings on the admission and exclusion of evidence are reviewed for abuse of discretion.

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 71 (2015) (admission of remainder of statement under **Rule 106**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 46 (2015) (admission of evidence of GHB in victim's blood under **Rule 401**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 54 (2015) (admission of recordings of telephone calls from jail under **Rule 401**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 60 (2015) (photographs under **Rule 401**).

State v. Felix, 237 Ariz. 280, 349 P.3d 1117, ¶ 38 (Ct. App. 2015) (admission of photographs under **Rule 401**).

State v. Abdi, 236 Ariz. 609, 343 P.3d 921, ¶ 8 (Ct. App. 2015) (exclusion of evidence of valid caregiver registration card issued by Oregon Health Authority under **Rule 401**).

State v. Cornman, 237 Ariz. 350, 351 P.3d 357, ¶ 25 (Ct. App. 2015) (weighing prejudicial effect against probative value under **Rule 403**).

State v. Leteve, 237 Ariz. 516, 354 P.3d 393, ¶ 18 (2015) (exclusion of character evidence under **Rule 404** reviewed for abuse of discretion).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶¶ 50, 56 (2015) (admission of other act evidence under **Rule 404(b)**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 53 (2015) (whether to allow re-cross-examination under **Rule 611(b)**).

State v. Burns, 237 Ariz. 1, 344 P.3d 303, ¶ 101 (2015) (scope of cross-examination under **Rule 611(b)**).

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 7 (2015) (preclusion of expert testimony under **Rule 701**).

State v. Ortiz, 238 Ariz. 329, 360 P.3d 125, ¶ 5 (Ct. App. 2015) (admission of expert witness testimony under **Rule 702** reviewed for abuse of discretion).

Jaynes v. McConnell, 238 Ariz. 211, 358 P.3d 632, ¶ 15 (Ct. App. 2015) (exclusion of evidence of expert witness's personal practices under **Rule 702** reviewed for abuse of discretion).

State v. Bernstein (Herman), 237 Ariz. 226, 349 P.3d 200, ¶¶ 9, 19 (2015) (admission of expert testimony under **Rule 702(d)**; court held trial court used wrong legal standard and thus abused discretion in excluding evidence).

State v. Carlson, 237 Ariz. 381, 351 P.3d 1079, ¶ 7 (2015) (sufficiency of evidence of *corpus delicti* under **Rule 801(d)(2)(A)**).

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